Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Message Text

CONFIDENTIAL

PAGE 01 STATE 296901
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ARA/AND/E:TALLITTO (DRAFT)
ARA/L:SSCHWEBEL (INFO)
TREASURY:JJOHNSON (PHONE)
ARA/ECP:SHROGERS
EB/TFD/OIA:RSMITH(DRAFT)
---------- 022109
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FM SECSTATE WASHDC
TO AMEMBASSY QUITO PRIORITY

C O N F I D E N T I A L STATE 296901

E.O. 11652:GDS

TAGS: BOIS, ENGR, EC

SUBJECT:MEETING WITH NORTHWEST INDUSTRIES PRESIDENT ON
ADA EXPROPRIATION CASE

REF: QUITO 8445

SUMMARY: THE MEETING WITH NORTHWEST PRESIDENT MCMILLIAN TO DISCUSS STEPS TO RESOLVE THE ADA EXPROPRIATION CASE IN ECUADOR TURNED OUT REASONABLY WELL. WE EXPRESSED OUR CONCERNS OVER THE POSSIBILITY OF DETERIORATING USG/GOE RELATIONS IF WE ARE FORCED TO VOTE AGAINST IDB AND IBRD LOANS TO ECUADOR AND EFFECTS THIS MIGHT HAVE ON NORTHWEST'S PROPOSED GAS PROJECT. MCMILLIAN APPEARS WILLING TO EXPLORE THE POSSIBILITY OF MAKING SOME ARRANGEMENT WITH ADA AND THE GOE TO SATISFY ADA'S CLAIM. END SUMMARY.

1. DEPT. ASST. SEC. GRUNWALD MET WITH NORTHWEST INDUSTRIES PRESIDENT MCMILLIAN ON FRIDAY, DECEMBER 3, TO EXCHANGE VIEWS REGARDING ADA'S EXPROPRIATION CLAIM. TREASURY AND OPIC
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 296901

REPRESENTATIVES ALSO ATTENDED MEETING. GRUNWALD EXPRESSED

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

OUR CONCERN TO MR. MCMILLIAN THAT LACK OF MOVEMENT TO RESOLVE ADA'S CLAIM COULD, BECAUSE OF THE GONZALES AND HICKENLOOPER AMENDMENTS, LEAD TO A USG DECISION TO VOTE AGAINST ECUADOREAN LOANS IN THE IDB AND IBRD. THESE ACTIONS COULD LEAD TO DETERIORATING US/GOE RELATIONS WITH POSSIBLE HARMFUL EFFECTS TO NORTHWEST'S PROPOSED GAS PROJECT IN ECUADOR. GRUNWALD EXPLAINED TO MR. MCMILLAIN OUR UNDER-STANDING THAT THE POLITICAL SITUATION IN ECUADOR SUR-ROUNDING THE ADA CASE MADE IT VIRTUALLY IMPOSSIBLE FOR THE GOE TO MAKE A DIRECT SETTLEMENT WITH ADA. THUS WE WANTED TO EXPLORE THE POSSIBILITIES OF REACHING SOME TYPE OF INDIRECT SETTLEMENT THROUGH NORTHWEST, ON ADA'S CLAIM.

2. MR. MCMILLIAN'S INITIAL REACTION WAS NEGATIVE. HE ASSERTED NORTHWEST HAD PROCEEDED ON THE BASIS OF ASSUR-ANCES BY US EMBASSY IN QUITO THAT ADA HAD NO CLAIM. HE BELIEVED THAT THE PRESENT SITUATION WAS CREATED BY THE USG BY PRESSING ADA'S CASE. HE WAS NOT INTERESTED IN TALKING TO ADA AND SAID IT WAS UP TO ADA TO WORK OUT ITS PROBLEMS WITH THE GOE. HE ALSO STATED THAT ADA'S COURT CASE IN TEXAS AGAINST NORTHWEST HAD LITTLE MERIT. MR. MCMILLIAN SOFTENED HIS RESISTANT ATTITUDE IN THE COURSE OF THE MEETING, AS INDICATED IN PARA 5 BELOW.

3. MR. MCMILLIAN FURTHER STATED THAT PROGRESS WAS BEING MADE TO EXPLOIT THE GAS RESERVES. A TENTATIVE FINANCIAL COMMITMENT FOR THE PROJECT HAS BEEN OBTAINED FROM THE UK (ROTHSCHILD) AND FROM SPAIN. NORTHWEST WAS NO LONGER INTERESTED IN ARRANGING FINANCING IN THE US (HE LEFT NO DOUBT, HOWEVER, THAT OPIC FINANCING WOULD HAVE BEEN PREFERABLE). UNDER PRESENT CONTRACTUAL ARRANGEMENTS WITH GOE, THERE IS A GOE GUARANTEE ON ANY INDEBTEDNESS NORTHWEST MAKES IN THE PROJECT. HE INDICATED FURTHER THAT THIS PROJECT (TOTALLING SOME DOLS. I80 MILLION) WOULD CONSIST OF APPROXIMATELY 90 PERCENT DEBT AND ONLY 10 PERCENT EQUITY.

4. ACCORDING TO MCMILLIAN, NORTHWEST HAS INVESTED SOME DOLS. 4.5 MILLION FOR GEOPHYSICAL STUDIES IN THE PROJECT CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 296901

TO DATE. HE WOULD BE VERY UNHAPPY INDEED IF US GOVERN-MENT ACTIONS ON THE ADA CASE WERE TO CAUSE THE PROJECT TO ABORT AND NORTHWEST WERE TO LOSE THIS INVESTMENT. MR. MCMILLIAN ALSO INDICATED THAT THE CONTRACT WITH THE GOE CONTAINS CONDITIONS TO REIMBURSE ADA FOR THE DIRECT USE OF ANY FACILITIES OR MATERIAL LEFT BY ADA AND EXPLOITED BY NORTHWEST. WHILE NOTING THAT NO DETERMINATION HAD YET BEEN MADE REGARDING WHETHER OR HOW MUCH OF SUCH

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

FACILITIES AND ,ATERIALS MIGHT BE USED, HE ESTIMATED
THIS REIMBURSE;ENT MIGHT INCLUDE AS MUCH AS DOLS. 1
MILLION IN MATERIAL AND SE OF ONE OR TWO WELLS WHOSE
VALUE CAN BE ROUGHLY ESTIMATED AT DOLS. 2 MILLION EACH.
AT THE SAME TIME HE REFERRED TO REPORTS THAT THE ADA
MATERIALS HAD DETERIORATED GREATLY.

MR. MCMILLIAN STATED THAT A MIXED COMPANY CONSISTING
OF THE GOE AND NORTHWEST WILL BE ESTABLISHED BY THE FIRST
QUARTER OF NEXT YEAR TO CONSTRUCT FERTILIZER PLANT FACIL-
ITIES. (THERE DO NOT APPEAR TO BE SUFFICIENT RESERVES
TO JUSTIFY A LNG OPERATION.) THE GOE IS ENTITLED TO UP
TO 60 PERCENT EQUITY IN THE FERTILIZER PLANT. NORTHWEST
WILL RUN THE GAS FIELD, ALTHOUGH CEPE IS ENTITLED TO
25 PERCENT EQUITY, AT ITS OPTION, IN THE FIELD. PRESENT
ARRANGEMENTS CALL FOR NORTHWEST TO PAY THE GOE TAXES ON
AMMONIA OUTPUT AND A SLIDING SCALE OF ROYALITIES, DEPEND-
ING ON AMMONIA PRICES, ON GAS PRODUCTION. MR. MCMILLIAN
EMPHASIZED THAT NORTHWEST HAD MADE NO COMMITMENT ON
DRILLING NOR WOULD IT INVEST FURTHER IN ECUADOR UNTIL ALL
ARRANGEMENTS WITH THE GOE HAD BEEN FINALIZED, INCLUDING
THE WELLS, PLANT, AND INFRASTRUCTURE.

5. WE POINTED OUT TO MR. MCMILLIAN THAT ADA HAS MADE AN
EXPROPRIATION CLAIM TO THE USG AND OUR DESIRE AT THIS
TIME IS TO ATTEMPT TO RESOLVE IT TO PRESERVE OUR RELA-
TIONS WITH THE GOE, TO HAVE THE GAS RESERVES EXPLOITED
AND TO PROTECT NORTHWEST'S INTERESTS AS WELL. WE WANTED
TO EXPLORE THE POSSIBILITY OF ARRANGING DISCUSSIONS BET-
WEEN NORTHWEST AND ADA TO REACH SOME KIND OF UNDERSTAND-
ING THAT COULD SERVE AS A BASIS FOR A SETTLEMENT BETWEEN
ADA AND THE GOE. SEVERAL POSSIBILITIES WERE AVAILABLE,
INCLUDING EARMARKING REVENUES FROM THE PROJECT FOR ADA
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 296901

(AS SUGGESTED REFTEL). MR. MCMILLIAN EMPHASIZED THAT THE
PRESENT ECONOMICS OF THE PROJECT PRECLUDE COMPENSATION
TO ADA FROM NORTHWEST BUT WAS OPEN TO ASSIST IN ARRANGE-
MENTS TO TRANSFER FUNDS TO ADA. HE INDICATED THAT HE WAS
NOT AGAINST ADA GETTING SOME OF ITS MONEY BACK. HE
FINALLY AGREED WITH US THAT IT MIGHT BE USEFUL FOR NORTH-
WEST AND ADA TO INITIATE DISCUSSIONS TO EXPLORE THE
POSSIBILITY OF REACHING AN AGREEMENT ON COMPENSATION.
MR. MCMILLIAN FELT, HOWEVER, THAT, GIVEN ECUADOREAN
SENSITIVITIES ON THIS ISSUE, IT WAS NECESSARY, BEFORE
TALKING WITH ADA, TO INFORM THE GOE AND DISCUSS THIS
SITUATION WITH THEM. HE INDICATED THAT AS A FIRST STEP
HE WOULD PREFER TO RETURN TO THE DEPARTMENT WITHIN THE
NEXT TEN DAYS WITH A NORTHWEST ATTORNEY, JUAN MARTINES
ALLENDE (JUAN ALLENDE?), WHO HAS FOLLOWED THIS MATTER

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

CLOSELY. FOLLOWING THIS SUBSEQUENT DISCUSSION WITH THE DEPARTMENT, MR. MCMILLIAN WOULD THEN APPROACH THE GOE REGARDING THE PROPOSAL TO HOLD DISCUSSIONS WITH ADA.

6. COMMENT: WE BELIEVE OUR MEETING WITH MCMILLIAN WAS ENCOURAGING WITH REGARD TO OUR EFFORTS TO RESOLVE THE ADA PROBLEM. NORTHWEST APPEARS COMMITTED TO EXPLOIT THE GULF OF GUAYAQUIL GAS RESERVES. IT NOW REALIZES THAT FAILURE TO SETTLE THE ADA CASE COULD CAUSE ITS OWN PROJECT TO ABORT. THIS REALIZATION COULD PROVIDE THE IMPETUS TO REACH A SETTLEMENT. WE UNDERSTAND FROM TREASURY THAT THERE MAY ALREADY HAVE BEEN SOME CONTACT BETWEEN NORTH-WEST AND ADA THROUGH ADA'S PARTNER HUMBOLT, A SUBSIDAIRY OF OKC. AN ARRANGEMENT MAY BE POSSIBLE IN WHICH ADA WOULD DROP OUT OF THE PICTURE WITH HUMBOLT INHERITING ITS CLAIM AND PERHAPS PARTICIPATING IN THE VENTURE WITH NORTHWEST. IF FINANCING IS INDEED NO LONGER A PROBLEM FOR NORTHWEST, PARTICIPATION BY HUMBOLT MAY BE VIABLE AND ESTABLISH A MEANS FOR THE GOE TO MAKE INDIRECT COM-PENSATION, AS IT WOULD NOT APPEAR TO BE DOING SO TO ADA.

WE DO NOT WISH TO SEE ADA CASE UPSET CURRENT GULF NEGOTIATIONS. WE PREFER TO AWAIT THE OUTCOME OF OUR SUBSEQUENT DISCUSSIONS WITH MR. MCMILLIAN AND HIS ATTORNEY REGARDING THEIR PROPOSED APPROACH TO THE GOE
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PAGE 05 STATE 296901

BEFORE DECIDING ON ADVISABILITY OF EMBASSY'S INFORMING GOE OF OUR DESIRE TO SETTLE ADA CASE THROUGH NORTHWEST.
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Margaret P. Grafeld
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US Department of State
EO Systematic Review
04 MAY 2006

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